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Senate

The Senate met at 2 p.m. and was called to order by the Honorable MARK R. WARNER, a Senator from the Commonwealth of Virginia.

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Eternal Lord, still our busyness that we may take time to hear Your voice. Focus the attention of our lawmakers that they may be attuned to Your special speaking. Silence the noises that distract them, enabling them to hear Your still, small voice. Infuse them also with such courage that they will patiently endure even Your silence, as they seek to fulfill Your purposes by their labors. Lord, visit them with Your presence and power until Your will is done on Earth as it is done in heaven.

We pray in Your righteous Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable MARK R. WARNER led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. BYRD).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, November 16, 2009.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable MARK R. WARNER, a

Senator from the Commonwealth of Virginia, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. WARNER thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. REID. Mr. President, following leader remarks, there will be a period of morning business until 3 p.m. today, with Senators permitted to speak for up to 10 minutes each. Following morning business, the Senate will resume consideration of the Military Construction and Veterans Affairs Act. At 5:30, the Senate will proceed to two rollcall votes in relation to the bill. The first vote is in relation to the Coburn amendment No. 2757. The second vote is in relation to the Coburn motion to commit the bill.

MEASURE PLACED ON THE CALENDAR—H.R. 3962

Mr. REID. Mr. President, H.R. 3962 is at the desk and due for a second reading.

The ACTING PRESIDENT pro tempore. The clerk will read the title of the bill for the second time.

The legislative clerk read as follows:

A bill (H.R. 3962) to provide affordable, quality health care for all Americans and reduce the growth in health care spending, and for other purposes.

Mr. REID. Mr. President, I now object to any further proceedings at this time.

The ACTING PRESIDENT pro tempore. Objection is heard. The bill will be placed on the calendar.

Mr. REID. The Chair will announce morning business, please.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, leadership time is reserved.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will be a period for morning business up to 3 p.m., with Senators permitted to speak for up to 10 minutes each.

Mr. REID. I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ALEXANDER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ALEXANDER. Mr. President, will you please let me know when 10 minutes have expired?

The ACTING PRESIDENT pro tempore. The Chair will do so.

(The remarks of Mr. ALEXANDER and Mr. WEBB pertaining to the introduction of S. 2776 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The ACTING PRESIDENT pro tempore. The Senator from Texas.

TRAIL OF KHALID SHAIKH MOHAMMED

Mr. CORNYN. Mr. President, I want to speak about the decision announced last Friday by the Attorney General to bring Khalid Shaikh Mohammed and other 9/11 coconspirators to the United States from Guantanamo Bay to stand trial in the Southern District of New York.

Of course, Khalid Shaikh Mohammed is the self-described mastermind of the 9/11 tragedy where 3,000 Americans

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.



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were killed. This is a terrible—a terrible—decision by the Attorney General and by the administration for any number of reasons, but I would like to explain why I believe this decision should be reconsidered by the Attorney General and the President of the United States—because of the risk at which it puts Americans and because this provides Khalid Shaikh Mohammed, a self-described superterrorist—this gives him everything he could have ever wanted, which is a platform to spew his hate-filled ideology and one in which he can recruit other like-minded individuals all around the world who may be watching.

One of the things I am always amazed by in our great country is how short our memory is. Of course, we are a nation at war after 9/11. But this is a war unlike any other this Nation has ever fought. We are at war with a murderous ideology, with ruthless killers who wear no uniforms and use civilians as human shields. Treating these war crimes like ordinary criminal events and trying these killers in an article III or a Federal court under the Constitution is simply reverting to a pre-9/11 mentality.

What do I mean by that? Mr. President, you will recall that the 9/11 Commission investigated the causes of what happened on September 11, 2001. One of the things they identified was the wall separating the sharing of intelligence which was shared among the intelligence community, and what information was developed during a criminal investigation had to be kept separate from ordinary intelligence collected by our military and our intelligence community. One of the things the 9/11 Commission unanimously said was that we needed to tear down that wall and share information, as we can consistent with the law, in order to protect the American people.

Simply put, the trial of the 9/11 co-conspirators, not in a military commission at Guantanamo Bay but in a Federal district court in Manhattan, one of the most populous portions of our country, is simply forgetting the lessons we should have learned on 9/11, which the 9/11 Commission so eloquently laid out for us and demonstrated.

But let's focus on who Khalid Shaikh Mohammed is, lest we have forgotten. According to the 9/11 Commission Report:

KSM [Khalid Shaikh Mohammed] describes a grandiose original plan: a total of ten aircraft to be hijacked, 9 of which would crash into targets on both coasts.

They included those eventually hit on September 11 plus: CIA and FBI headquarters, nuclear power plants, and the tallest buildings in California and the State of Washington.

Further quoting the report:

KSM [Khalid Shaikh Mohammed] himself was to land the 10th plane at a U.S. airport and—after killing all adult male passengers on board and alerting the media—delivering a speech excoriating U.S. support for Israel, the Philippines, and repressive governments in the Arab world.

The 9/11 Commission report concluded:

This is theater, a spectacle of destruction with KSM [Khalid Shaikh Mohammed] as the self-cast star—the superterrorist.

This is whom the Attorney General announced we will be bringing from Guantanamo Bay to a court in Manhattan to try as a common criminal. But he is anything but a common criminal. He is guilty of nothing less than war crimes against innocent Americans. According to this decision, the Attorney General is going to be providing him the forum he can use in order to proclaim himself as the “superterrorist” and in order to attract like-minded ideologues to his sick and twisted ideas of jihad. A criminal trial only gives Khalid Shaikh Mohammed the platform he has sought for years: a platform to expound his hatred to his would-be followers around the world.

The second reason this is a bad idea is because our civilian courts and procedures are ill-suited for terrorism trials because we cannot put judges in charge of national security.

I have high regard for the men and women who serve on our judicial benches around the country. I myself was a judge for 13 years in Texas. But our experience with terrorist trials shows that civilian courts are an inappropriate forum for a trial of war crimes.

As a result of information—this is one example why—as a result of information disclosed during the trials related to the East Africa Embassy bombings, Osama bin Laden became aware of cell phone intercepts, which prompted his organization to discontinue cell phone conversations. Because of the evidence disclosed in the trial, they simply realized they were being eavesdropped on and quit using cell phones, denying us that intelligence.

During the trial of Ramzi Yousef, the mastermind of the 1993 World Trade bombing, terrorists became aware of a communications link that provided enormously valuable intelligence to U.S. officials. This link, too, was shut down after the disclosure in that trial.

Then there was the trial of Sheikh Omar Abdel Rahman, the Blind Sheikh. A secret list of unindicted coconspirators in the prosecution wound up in the hands of Osama bin Laden in Sudan.

During the trial of Zacarias Moussaoui, the 20th hijacker, prosecutors inadvertently leaked sensitive material to defense counsel. Here is what the judge had to say about that case, which she characterized as “like a circus.” She said:

[Lawyers] are talking about the contents of sealed hearings [to the media], if I see any more [of] what I think are inappropriate leaks, I'm going to ask the FBI to start an investigation.

But that trial never even made it to a jury. Moussaoui's lawyers tied the court up in knots so he could use the trial as a platform to air his anti-American tirades. The only reason the

trial ultimately ended was because at the last minute Moussaoui decided to plead guilty. That plea relieved the government of the choice between allowing a fishing expedition into its intelligence files or dismissing the charges altogether.

One thing we can see with great confidence is that the trial of Khalid Shaikh Mohammed in a Federal district court in Manhattan will become the same kind of media circus times 10. It will give Khalid Shaikh Mohammed a platform to inspire his fellow terrorists.

Prosecutors will be forced to reveal U.S. intelligence on Khalid Shaikh Mohammed, the methods and sources for acquiring that information, and his relationships with fellow al-Qaida operatives around the world. That information will allow al-Qaida to develop more effective plots and to alert operatives whose cover is blown. This information will enable al-Qaida to detect our means of intelligence gathering and to push forward into areas we know nothing about.

Congress has made clear that U.S. civilian courts are not the appropriate venue to bring terrorists to justice. That is why we passed, in 2006, the Military Commissions Act. The military commissions were specifically designed to prevent sensitive disclosures and to protect classified information and sensitive sources and methods. Of course, we know from our work on these military commissions that they have a long history in our Republic—dating back from the Revolutionary War, to the Civil War, and to World War II—and they are an appropriate forum for Khalid Shaikh Mohammed and other terrorists.

As a matter of fact, the Attorney General made the baffling decision to try some of the worst of the worst—a superterrorist such as Khalid Shaikh Mohammed—in a Federal district court in Manhattan and to leave other terrorists for trial in Guantanamo Bay before military commissions. And I say, if Guantanamo Bay and military commissions are good enough for these other terrorists in the opinion of the Attorney General, they ought to be good enough for terrorists such as Khalid Shaikh Mohammed and his fellow 9/11 coconspirators.

Khalid Shaikh Mohammed and other terrorists, simply put, should not be brought to the United States. They should not be granted the same rights and privileges as American criminal defendants. They should stay at Guantanamo Bay and be prosecuted through the military commissions established by Congress under the terms circumscribed by the U.S. Supreme Court.

I ask my colleagues to remember that on July 19, 2007, we had a vote on this sense-of-the-Senate resolution: It is the sense of the Senate that detainees housed at Guantanamo Bay, Cuba, including senior members of al-Qaida, should not be released into American society, nor should they be transferred

stateside into facilities in American communities and neighborhoods. That sense-of-the-Senate resolution passed 94 to 3. Rarely do we see such unanimous, bipartisan opposition for the very acts the Attorney General announced last Friday, and it is with good reasons, some of which I have had the opportunity to discuss today. But there are other reasons that I will look for opportunities to come back and talk about to my colleagues.

I would ask the President of the United States to overrule the decision of his Attorney General because it is ill-advised. It will make America a more dangerous place, and it will allow terrorists such as Khalid Shaikh Mohammed—it will provide them the platform to spew their hateful ideology and encourage others to join them in killing innocent Americans and other individuals.

Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Minnesota.

Ms. KLOBUCHAR. Mr. President, I ask unanimous consent to speak in morning business for up to 10 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

MILITARY TRANSITION

Ms. KLOBUCHAR. Mr. President, this afternoon the Senate will resume consideration of the Military Construction and Department of Veterans Affairs appropriations bill. This critical legislation will provide full funding for veterans health care and other essential VA services.

Last week, Mr. President, as I am sure you and many of my colleagues did, I had the opportunity to meet with veterans around my State, really for 2 days, and I came back to Washington with a renewed commitment to provide our Nation's veterans with full support and the benefits they so clearly deserve.

Passing this VA appropriations bill is an important step toward fulfilling the promise we make to our veterans when they enlist: that we will take care of them when they return home. I figure, when they signed up for war there was no waiting line, so when they come home to the United States of America and they need a job or they need health care or they need any type of help from this government, there should not be a waiting line.

But funding the VA's health care system—as we are doing this week—and other existing veterans programs is only part of fulfilling that promise. Another critical component of fulfilling that promise is helping our newest generation of veterans make the difficult transition from military to civilian life—and what a difficult transition it is. New figures have recently come out that show that for post-9/11 veterans, their unemployment in October was 11.6 percent—significantly above the national average. But, like many of the

national unemployment rate statistics, this statistic conceals the true scope of the problem. Here is the number to remember: 18. Eighteen percent of veterans who left the military in the past 1 to 3 years are unemployed, according to a 2008 Department of Veterans Affairs employment survey. Of those veterans who have found work, 25 percent earn less than \$21,800 per year and only 58 percent of veterans who are employed have been able to find work in the private sector.

These are the people whom I saw when I was at home. One of the things that came to my attention was that a number of them would choose, if they could, to pursue apprenticeships. A lot of them want to go to college for 2-year or 4-year degrees. We have large numbers of returning soldiers in college in Minnesota. One of the things I found from visiting some of our technical colleges is that a number of them would like to choose to pursue a different way to find a job.

A recent VA survey of private sector employers found there is a perception that servicemembers do not perform duties within tightly defined skill sets. The study concluded there should be a greater emphasis placed on business and professional training of veterans coupled with increased efforts to match their skills with available jobs. That is why I introduced bipartisan legislation last week, joined by Senator JOHANNES of Nebraska and Senator MURRAY of Washington, to help Iraq and Afghanistan veterans obtain the training and experience necessary for full-time employment by allowing them to use their post-9/11 GI bill benefits for job training and apprenticeship programs.

As my colleagues know, last year, under the leadership of Senator WEBB, we passed into law the Post-9/11 Veterans' Educational Assistance Act, which will provide the men and women who served on active duty since September 11, 2001, with comprehensive educational benefits similar to those World War II veterans received. While I believe there is no greater investment we can make in the future of our veterans than granting them the chance to pursue the higher education of their choosing, I also believe we must not limit veterans' opportunities to only the pursuit of academic degrees. Not every returning soldier chooses to go to college, but they still want a job. Job training, from pipefitting to law enforcement, should also be covered by the GI bill.

Our legislation, the Post-9/11 Veterans' Job Training Act, would allow veterans who wish to enter the workforce immediately rather than pursuing an academic degree to use their post-9/11 GI bill benefits to obtain critical training and job skills.

Specifically, veterans enrolled in an on-the-job training or apprenticeship program could use their benefits to pay for a percentage of their monthly housing costs, which would decline over a period of months; certification and

testing fees; relocation and travel expenses; and tutoring costs. We put these things together based on our discussion with veterans across the country to see what their exact needs were to make it easier for them to go through the pipefitting apprenticeship programs and others that land them in the workforce more immediately.

In order to qualify under this legislation, veterans must be enrolled in programs that have been approved by their State's accrediting agency. As under the old GI bill, veterans can also receive a salary from their employer during this training. This bill will restore the same eligibility and benefits for job training and apprenticeship programs that were available to veterans under the Montgomery GI bill, but are no longer available under the post-9/11 GI bill.

I talked to Senator WEBB and I know there were some reasons this got changed. He is, in fact, supportive of including this, because we have seen this skyrocketing unemployment rate, in part because of the economy, and we want to find every opportunity we can for our veterans to find work.

According to the VA, up to 10 percent of veterans use their Montgomery GI bill benefits for education other than college or graduate school, including for on-the-job training and apprenticeship programs. Through this legislation, post-9/11 veterans will be able to use their expanded benefits for the very same purposes. In Minnesota alone, there are over 50 such programs currently providing training and employment opportunities to veterans, including jobs in law enforcement, construction, engineering, and education.

I was at one of these institutions in Minneapolis this last week and met with some of our veterans, some of whom have done multiple tours in Iraq and one who was leaving in a few months, and they found it very helpful to return to these apprenticeship programs—some of which involve incredibly complex subjects—offering them the opportunity to learn those trades, and this will greatly help them so they can better afford these programs. By applying the new GI bill benefits they have earned toward these programs, veterans can acquire the skills and experience they need for success in the civilian workforce.

Last week, President Obama signed an Executive Order creating a Council on Veterans Employment and directing each Federal agency and department to establish an office to focus on the hiring of veterans. Like the President, I am committed to ensuring that veterans have a path to stable employment when they leave the military.

One other piece of legislation I wish to mention, because I am hopeful it will be included in our health care reform, is the Veterans to Paramedics Transition Act which I introduced along with Senator ENZI. It helps returning veterans with medical training to pursue further education as paramedics. One of the things I found in our